

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JERALD REY COSTA, JR.,

v.

Petitioner,

Case No. 3:16-cv-00705-HDM-CLB

ORDER

ISIDRO BACA, *et al.*,

Respondents.

In this is a federal habeas proceeding under 28 U.S.C. § 2254, petitioner, Jerald Rey Costa, Jr., has filed a motion captioned as a “Motion for Instructions as to Second and Successive Petition at State Court.” ECF No. 32. In support of the motion, Costa states that he has filed a second and successive habeas petition in state court seeking relief based on state case law that was not available when he filed his federal petition. He asks this court to instruct him how to proceed in this case considering his recently filed state petition.

District courts are not obligated to provide habeas petitioners with legal advice. *Pliler v. Ford*, 542 U.S. 225, 231 (2004). As the Court in *Ford* noted, “[r]equiring district courts to advise a *pro se* litigant … would undermine district judges’ role as impartial decisionmakers.” *Id.* In addition, the court runs the risk of misleading the petitioner when it takes on the role of an advocate. *Id.* For these reasons, Costa’s motion will be denied.

Before addressing Costa's remaining habeas claims on the merits, the court will allow him 60 days to file a reply to respondents' answer (ECF No. 31). In addition, the court also notes that respondents did not comply or respond to the court's prior order to

1 supplement the record with a copy of the transcript of the preliminary hearing conducted
2 on July 8, 2010, in Case No. SJC 10-1108 (Sparks Justice Court). See ECF No. 29 at 5.
3 In light of the extended deadline for Costa's reply, the court will allow 20 days for the
4 respondents to address that apparent oversight.

5 **IT IS THEREFORE ORDERED** that Costa's "Motion for Instructions as to Second
6 and Successive Petition at State Court" (ECF No. 32) is DENIED.

7 **IT IS FURTHER ORDERED** that respondents have 20 days from the date this
8 order is entered to either (1) supplement the record with a copy of the transcript of the
9 preliminary hearing conducted on July 8, 2010, in Case No. SJC 10-1108 (Sparks
10 Justice Court) or (2) file a notice explaining why they are unable to provide a copy of the
11 transcript.

12 **IT IS FURTHER ORDERED** that petitioner has 60 days from the date this order
13 is entered to file a reply to respondents' answer (ECF No. 31).

14 DATED this 16th day of August, 2023.



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16 UNITED STATES DISTRICT JUDGE
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